


## Analysis Of The Application Of Fiqih Rules In DSN MUI Fatwa On Murabahah Agreement No. 04/DSN-MUI/IV/2000

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Article Info	ABSTRACT
<b>Keywords:</b> Rules, Fatwa of the National Sharia Council, Murabahah	The Law of Fiqh ( rules) fiqh ) in etymological is the basics or related principles with problems or types fiqh. Research This done For know implementation rules jurisprudence in transactions according to the DSN fatwa. Research This based on the results observations that discuss about review general about rules jurisprudence Good from aspect understanding, basics law, and its types, application rules jurisprudence in DSN-MUI Fatwa No. 4/DSN-MUI/IV/2000. The research method used by the author use is method study library research where we search from various source reference like books, journals, and e-book. Research results application of fiqh fatwa in transactions according to the DSN fatwa.
This is an open access article under the <a href="https://creativecommons.org/licenses/by-nc/4.0/">CC BY-NC</a> license 	<b>Corresponding Author:</b> Ahmad Parlindungan Pasaribu Institut Syekh H. Abdul Halim Hasan Binjai <a href="mailto:ahmadparlindungan@insan.ac.id">ahmadparlindungan@insan.ac.id</a>

### INTRODUCTION

Rules jurisprudence is principles general that has been compiled by Ulama based on the Al-Quran and Sunnah for give guidance or guide in finish problems fiqh. Rules become something important in taking decision Islamic law, especially in complex and dynamic context. Within the scope sharia economy, the National Sharia Council (DSN) has such a role significant in issued fatwas guide for institution Islamic finance in Indonesia.

The fatwa issued by the DSN is solely No only based on arguments Islamic law, but also always consider rules jurisprudence as runway in give solution relevant and applicable laws. With understand rules jurisprudence in the DSN fatwa, it can seen How sharia principles are applied in a way contextual For answer need modern society without ignore values main in Islamic teachings. Approach This No only For show flexibility Islamic law, but also its relevance in face challenges of the times.

Sharia economics is system economy based on the principles of Islam. In the context of This is MUI Fatwa No. 59 of 2009 concerning Guidelines Implementation Murabahah and MUI Fatwa No. 77 of 2011 concerning Murabahah become reference for implementation transaction Islamic finance in Indonesia. In order to develop and strengthen system Islamic economics, DSN MUI issued a fatwa on regulated murabahah in DSN MUI No. 04.

### RESEARCH METHODS

Based on the problem that the author be careful, then type research that researchers do use is study method library research. Research literature is a the method used in research

conducted with method researching material existing libraries. Stages First study literature is research aimed at For get results objective, namely with stage study to problem. Stages second study literature is research aimed at For get results subjective.

The approach taken in study This that is approach qualitative which is a procedure research that produces descriptive data with method descriptive analysis. The analysis technique is analysis this ( *content analysis* ), namely techniques used For analyze the meaning contained in the collected data through research bibliography.

## RESULTS AND DISCUSSION

### General Overview of Fiqh Rules

#### Understanding Fiqh Rules

In understanding a draft or science, the scholars formulated ten the important thing, so that we can understand in a way comprehensive. Tenth matter the concluded in form poem, which means : " Principle all knowledge There is ten types : (1) its limits, definition, tariff ; (2) its objects ; (3) its fruits, results, benefits ; (4) its advantages or the advantages from other sciences ; (5) their relevance with other sciences ; (6) its builder, its excavator, its discoverer ; (7) its name. his knowledge ; (8) support knowledge said ; (9) law study it ; (10) examples problem in it. Whoever knows tenth matter the will own honor."

Al- Qowa'id form plural from the word qo'idah ( rules ). The scholars interpret law in a way etymological and terminological. In the linguistic sense, *qo'idah* meaningful basis, foundation, or foundation, good in a concrete sense or abstract ones, such as the words *qowa'id al-bait* ( foundation) house ), *qowa'id ad-din*, ( basics of religion), *qowa'id al- 'ilm* ( rules) science ). This meaning used in the Al-Quran surah Al-Baqarah verse 127 and surah An-Nahl verse 26:

And the Lord Yafrof O Lord, Allah is the Most Gracious My name is Allah is the Most Gracious <sup>وَأَسْمِعُ</sup>

Meaning : " *And remember when Ibrahim raised the basics of Baitullah with Ismail... "*

Fatih Allah is the Most Gracious And the Most High My name is O Allah, the Most Gracious Meaning : " *... Allah destroys building they from the foundations .... "*

From both paragraph the Can concluded meaning of the rule is basis, foundation, or foundation, the place above stand building. Definition rules kind of This also found in other sciences, for example in *nahwu* Arabic, such as *sorry* That *manshub* and *verb* That *marfu* ! From here There is element important in rules that is things that are *cup* ( comprehensive ) which includes all over its parts.

While the word *fihiyyah* taken from the word *fiqh* with add *yes ratio*. Which works as categorization and nationalization. This word in a way etymology means understand something in a way deep. Whereas in a way terminology according to Abdul Wahab Al-Khallaf is " Science " about laws syara 'which is of a nature practice ( practical ) obtained from detailed arguments. Surah Al-Isra verse 36 reads :

And Allah To the Lord Mo Lois Loko Blessed be O Allah, Allah O Lord, And the Messenger of Allah And He is the Most Merciful Allah O Allah, the Most Gracious Canaan O Allah May Allah be pleased with you.

Meaning : " *Don't you follow something you do n't know. Indeed hearing, sight and heart conscience, all That will requested his accountability* ”.

This verse push Muslims for look for science, including knowledge fiqh so that everything actions and worship are based on true knowledge. According to Sheikh H. Abdul Halim Hasan in book his interpretation is entitled Tafsir Ahkam intended from surah Al-Isra verse 36 is No There is work that is allowed followed or mixed if No There is knowledge We in matter That. In general general paragraph This give specialization with may charity based on ijihad, or hadith *Sunday*, or charity with information witness.

With thus, then *the science of jurisprudence* ( rules) fiqh ) in etymological is the basics or related principles with problems or types fiqh. In life muamalah *maliyah*, usage *qawa'id jurisprudence* become something very important. Along with as time goes by, it seems presence *law* No can avoided.

### Legal Basis of Fiqh Rules

#### 1) Al-Qur'an

Al- Quran Karim is source main points and arguments main for law Sharia Islam. A collection of God 's revealed words to Prophet Muhammad SAW and was quoted with road muttawatir. The verses of the Koran that Allah revealed with method apart according to events and incidents in society at the time that. Therefore that, event mentioned in Islam called cause revelation.

Principles general In the Qur'an, it realizes two goals, first, strengthening perfection in Islam as has been mentioned in QS. Al-Maidah verse 3 :

God willing, God willing, وَمَا أَلْحٰزِيْر وَمَا اٰهَلْ لِيْغِيْر اَللّٰهِ بِهٖ وَالْمُنْحٰفَهٗ وَالْمَوْفُوْدَهٗ وَالْمَنْرِدِيَهٗ وَالنَّطِيْحَهٗ وَمَا اَكْمَلْتُمْ لِكُمْ دِيْنَكُمْ وَاَتَمَمْتُمْ عَلَيْكُمْ نِعْمَتِيْ وَرَضِيْتُمْ لَكُمْ الْاِسْلَمَ دِيْنًا ۗ اَفَمَنْ اَضْطَرَّ فِيْ مَخْمَصَةٍ غَيْرٍ مُّتَجَانِفٍ ۗ لِآٰتِمٍ ۗ فَاِنَّ اَللّٰهَ غَفُوْرٌ رَّحِيْمٌ

Meaning : " *It is forbidden" for you ( eat ) carrion, blood, flesh pork, and ( meat) animals ) that are slaughtered No in ( the name of ) Allah, those who are strangled, those who are beaten, those who fall, those who are gored, and those who are torn apart wild animals, except those you ( had time to ) slaughter. ( It is also forbidden ) what is slaughtered For idols. ( Similarly ) draw lots fate with azlām ( child ) arrow , ( because ) that a action wicked. On the day these infidels have separated hope to ( defeat ) your religion. Because that, don't You Afraid to they, but be afraid to Me. On the day This I have perfected your religion for you, I have provided enough My favor upon you, and I have approved Islam as a religion. your religion. So, who is forced? Because hungry, not Because want to sin, verily Allah is Forgiving and the Most Merciful."*

Second, it shows flexibility Sharia Islam in accordance with all development of time and place so that Can applied When only and where just.

#### 2) Sunnah

Sunnah is everything that is quoted or reported from prophet SAW, good in the form of words, deeds, or determination prophet. Sunnah sometimes muttawatir and sometimes Sunday. Scholars agree that hadith fearless can become argument. However authentic hadith

can accepted For made into argument, and become source rules. Rasulullah SAW always convey all something with method short, concise, straightforward and easy understood. With Thus, the statement he Lots become inspiration in birth qowaid jurisprudence.

### 3) Atsar friend

Rules fiqh which is sourced from from atsar friend can seen from like Ummar Bin Khatab's words " break up right thanks to the conditions that are made ".

Sayings of Ummar Bin Khatab This Once happen violation the agreement that has been determined by both partner husband wife, such as : a man to marry a woman and she condition ( promise ) to still stay at his house. Then man That will bring it move. Because of that they complained about it to the Caliph Ummar, Ummar stated that woman That have rights to be fulfilled the conditions. Then he said man said, if like this you divorce us, then Ummar said : the decision right depends on the conditions.

Ummar 's decision show that conditions made before profitable marriage contract woman That No against with marriage, because condition the binding, with the meaning of the word must fulfilled, if No fulfilled, then woman have right For to fasakh or cancel his marriage.

### 4) Tabiin

One of the famous tabiin is Syuraih bin Al Harist who works as qodhi or judge, he been a judge since the time of Umar bin Khattab until with Mu'awiyah bin Sofyan, one of those who became rules jurisprudence or Qadhi Syuraih's words : Something that is required on himself in a way voluntary without forced, then a That tie on himself. From the rules This explain that every transaction must The same The same willing and not there are those who feel forced do nya. Because of the willingness heart For stage transaction is condition legitimate his transaction.

## Various Types of Fiqh Rules

In general Details material *jurisprudence* That return to hundreds rules fiqh, but what is important known there are five rules fiqh which is considered by some scholars to be basis and principles general from all over material jurisprudence. Fifth rules That is :

#### 1) *Al- umuuru the most beautiful* ( Every case That according to It means ).

In fiqh transactions, every spoken contract with the words kinayah ( figuratively ), then its validity returned to intention, namely What do you mean or intended by the perpetrator said. Even often also said with firm, but means something else.

#### 1) *Al- yaqiinu laa yuzaalu thank you* ( Confidence) No Can removed by doubt ).

For example, if There is proof receipt somebody owe, then arise dispute about Already pay according to those who owe and have not pay According to the person who lends it, it is the one who keeps it words that lend, convincing cause the existence of debt with proof earlier.

#### 2) *Al- masyaqqotu the narration taysiir* ( Difficulty That bring in convenience ).

In muamalah may do sell buy For items that are not how much price without consent accepted. If No There is a true witness fair may use lack of witnesses its justice, if No Can dropped law of had because No fulfil conditions, then dropped punishment ta'zir

#### 3) *Al- dhororu yuzaal* ( Harm) That must removed ).

Rules This require remove harm as well as influence from harm For example, the existence of rule *the sham* in transactions.

- 4) *Al-' aadatu the most important thing* ( That custom Can set as law ).

For example determine his defect goods for sale buy in case *the cause of the evil*.

#### Implementation Fiqh Rules in DSN-MUI Fatwa No. 04/DSN-MUI/IV/2000

DSN MUI Fatwa NO.04/DSN-MUI/IV/2000 discusses about murabahah, namely contract sell buy goods with mention price and acquisition agreed profit between sellers and buyers, in its implementation, there is rules rules fiqh that underlies this fatwa. Following is implementation rules jurisprudence in DSN-MUI fatwa No. 04/DSN-MUI/IV/ 2000:

- a. *Al- Ashlu fil ' Uqud al-Ridha* (Origin in contract is pleasure second split parties ). This fatwa confirm importance existence pleasure between the bank ( seller ) and the customer ( buyer ) in contract murabahah. This is in accordance with rules that contract only legitimate If second split party agreed with terms and conditions, including price the gains and profits explained in a way transparent.
- b. *Al- Kharaj bi al-Dhaman* ( Profit accompanied by with not quite enough answer risk ). Rules This show that the bank has the right get profit from products sold, but they also bear risk on product the before the occurrence handover to buyer.
- c. *Al- Ghunm bill Ghurm* ( profit in line with risk ). Rules This explain that entitled party get A profit is the party that is also ready bear A risk.
- d. *Al- Yaqin La Yazulu bi al- Syakk* ( belief No can removed by doubt ). The rule This explain that transaction must based on belief, without There is element evil or uncertainty.
- e. *The Dharar and the Dhirar* ( No may There is danger or each other dangerous ). The rule This teach that transaction must be free from practices that are detrimental to one party.
- f. *Al- Maslahah Introduction to the Mafsadah* ( benefit) come first on damage ). Rules This explain that law a transaction must weigh repeat welfare for all split party.

#### Methodology of Fatwa DSN-MUI/04/IV/DSN-MUI/2000

The method used by the MUI fatwa commission in the process of determining fatwas is through 3 approaches, namely: approach *text qath'i*, approach *qauli*, and approach *manhaji*. Approach *qath'i* done with hold on with Quran and Hadith texts For something problem if problem set there is in text of the Quran or Hadith in a way clear. Approach *qauli* is approach in the process of determining the fatwa with based it on the opinion of the sect's imams in fiqh books leading. Approach *hajj* is approach in the process of determining the fatwa which uses rules principles and methodology developed by madhhab imams in formulate a problem. In general DSN MUI fatwa opinion always also pay attention to the welfare general and summary religious teachings, so that the DSN MUI fatwa is truly answer problems faced people and truly become alternative For made into guidelines in operate business Islamic economics in Indonesia.

The DSN MUI fatwa format is only limited give determination of legal status the issue that has been addressed, not yet nature *scientific ' ifadah '* namely give utility enlightenment outlook science, so that not enough give supplies to circles outside the Islamic economic scholars. Therefore It is recommended that every fatwa be accompanied by the attachment, in the form of description scientific short that leads to conclusions contents of the fatwa.

There is similarities and differences between fatwa and decision court. As for the equation both of them is that each of the judges and muftis must has two knowledge : first, knowing incident or the event that is about to happen given a fatwa or given decision. Second, knowing law syara '. As for the side difference between fatwa and decision court namely : First, give more fatwas wide the field than giving verdict, because give a fatwa according to opinion as a cleric, may carried out by free people, slaves purchase (slave ), man, woman, family close, family far away, strangers and friends peer. While the decision only given by free people who were male and not There is stuck link family with the person concerned. Second, the judge's decision applies For plaintiff and defendant, different with a fatwa. A fatwa may be issued accepted may no. Third, different judge's decisions with mufti's opinion, seen valid and the mufti's fatwa is not can cancel judge's decision, while the judge's decision can annulled the mufti's fatwa. Fourth, Mufti does not can give decision except if he has become a judge. Different with the judge, he must give a fatwa if has is a must and may give a fatwa if Not yet is a necessity. The Shafi'iyah and Hambaliyah scholars to argue that the judge did not may give fatwa on possible problems will brought forward to court. Because maybe the verdict Later different with his fatwa, will arise difficulty for him. Therefore The Great said " / *decided case between you, not give a fatwa* ". In general general, instructions procedure determination of the MUI fatwa can put forward as following : First, the basis general and determination fatwa:

- a. The determination of fatwas is based on the Al-Quran, Sunnah ( hadith ), ijma', and qiyas as well. another *valid* argument.
- b. Activities fatwa determination is carried out in a way collectively by a an institution called fatwa commission.
- c. The determination of the fatwa is of a responsive, proactive, and anticipatory.

Second, the DSN MUI Fatwa Determination Method:

- a. Before the fatwa is issued should reviewed more formerly the opinion of the madhhab imams and ulama *the answer* about the problem that will issued a fatwa said, in a manner carefully following the arguments.
- b. The obvious problem the law should delivered as existence.
- c. In the matter that occurred khilafat in the community school of thought, then : The determination of the fatwa is based on the results business invention point meeting between opinions of scholars through method *al- jam'u wa at- tawfiq* ; If the effort invention point meeting No succeed so carried out, the determination of the fatwa is based on the results *tarjih* through method *the savior* with use rules principle jurisprudence *muqaran*.
- d. In a matter that is not found opinion the law among madhhab, the determination of fatwa is based on the results of ijihad *jama'iy* ( collective ) through method *bayaniy, ta'liliy* ( *qiyasiy, istihsaniy, ilhaqy* ), *istishlahi*, and *sadd adz-dzari'ah*.
- e. The determination of the fatwa must always notice welfare general ( *mashalih'ammah* ) and *purpose asy -syariah*. *Maqashid al- syari'ah* is one of the draft important in discussion Islamic law. Because that's how it is importance discussion about *Maqashid*

*al- Shari'ah* said, the experts Islamic law makes theory *Maqashid al- Shari'ah* as something that must be done understood by the mujtahid who performs *ijtihad*.

*The purpose of sharia* as method *istinbath* law, in conclude law notice aspect welfare in determination law So that benefit from law That Can felt by humans in a way general, at the same time can answer issues contemporary. DSN-MUI Fatwa MUI No. 04/DSN-MUI/IV/2000 concerning *murabaha* arrange a number of things, including :

1. The bank gives items needed Customer on own bank name
2. Purchase the must legal and free from usury.

A number of the principles explained In this fatwa, among others :

1. Man is the caliph in front earth, so that pay attention love *ma'ruf* is a necessity.
2. Truth is absolute thing For enforced.
3. Islamic economics teach justice, that all something must based on their respective proportions.

In research about implementation of DSN MUI fatwa No. 4/DSN-MUI/IV/2000, the method used is method *literature review* or *systematic literature* (SLR). This method is activity analysis that can in the form of criticism to research conducted on the topic certain in field scientific.

## CONCLUSION

*The Law of Fiqh* ( rules) *fiqh* ) in etymological is the basics or related principles with problems or types *fiqh*. Legal basis rules jurisprudence sourced from from the Koran, Sunnah, Atsar friends, and *tabi'in*. By Details material *jurisprudence* That return to hundreds rules *fiqh*, but what is important known there are five rules *fiqh* which is considered by some scholars to be basis and principles general from all over material *fiqh*. Fifth rules That is:

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